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7 *Attorneys for Quentin L. Kopp*

8  
9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 QUENTIN L. KOPP,

12 Plaintiff,

13 v.

14 THE UNITED STATES SECRET SERVICE,

15 Defendant.

CASE NO. 3:18-cv-04913-JCS

16 **DECLARATION OF MALLORY A. BARR**  
17 **IN SUPPORT OF PLAINTIFF QUENTIN L.**  
18 **KOPP'S MOTION FOR ATTORNEYS'**  
19 **FEES**

Date: May 3, 2019

Time: 9:30 a.m.

Ctrm: G, 15th Floor

Judge: Chief Magistrate Judge Joseph C. Spero

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**DECLARATION OF MALLORY A. BARR IN SUPPORT OF PLAINTIFF QUENTIN L.**  
**KOPP'S MOTION FOR ATTORNEYS' FEES**

1 I, Mallory A. Barr, declare:

2 1. I am an attorney duly admitted to practice before this Court, and am an associate with  
3 the law firm of Cotchett, Pitre & McCarthy, LLP, counsel for Plaintiff Quentin L. Kopp in this matter.  
4 I submit this declaration in support of Plaintiff Quentin L. Kopp's Motion for Attorneys' Fees. If  
5 called as a witness, I could and would competently testify to all facts herein.

6 2. I have reviewed the time records of CPM in connection with this litigation. CPM's time  
7 records are kept in the normal course of business. A true and correct copy of CPM's lodestar report is  
8 attached hereto as **Exhibit 1**, detailing the total number of hours CPM spent on this case.

9 3. As reflected in Exhibit 1, CPM spent 81.8 hours of professional time on this matter,  
10 with a lodestar of \$40,600.00. Those hours were reasonably expended by CPM's attorneys and staff  
11 and are supported with contemporaneous time records. A true and correct copy of CPM's categorized  
12 time records are attached hereto as **Exhibit 2**.

13 4. The hourly rates listed on Exhibit 1 are CPM's regular hourly rates charged to hourly  
14 paying clients. Those rates are similar and comparable to other attorneys and professional staff of  
15 similar skill and experience in the San Francisco Bay Area. Based upon my experience as an attorney  
16 practicing in the Northern District, the rates charged by CPM are comparable to those charged by other  
17 attorneys and professionals of similar skill and experience and are reasonable rates in this community.

18 5. CPM has not charged Plaintiff any hourly fees in connection with this litigation and  
19 will only receive compensation for its time to the extent this Court issues an award of attorneys' fees.

20 6. I have reviewed the costs CPM incurred in connection with this litigation. A true and  
21 correct copy of CPM's cost report is attached hereto as **Exhibit 3**. These costs were necessary and  
22 reasonable in connection with the prosecution of this action.

23 7. In connection with this litigation, following staffing changes within CPM, I managed  
24 the day-to-day aspects of the case, including familiarizing myself with the legal theory and issues of  
25 the case, corresponding with our client and others about the case and the information produced,  
26 including journalist Annie Gowen, reviewing Defendant's production and Answer, corresponding with  
27 counsel for Defendant, preparing and reviewing necessary court filings, and appearing at case  
28 management conferences.

**DECLARATION OF MALLORY A. BARR IN SUPPORT OF PLAINTIFF QUENTIN L.  
KOPP'S MOTION FOR ATTORNEYS' FEES**

8. On September 21, 2018, Defendant made an initial production of approximately 91 pages of records in response to Plaintiff's FOIA request.

9. On October 24, 2018, Defendant made a supplemental production of approximately 5 pages of records.

10. Beginning in October 2018, I initiated talks with counsel for Defendant regarding attorneys' fees and costs. Those protracted discussions continued through February 27, 2019, when Defendant's counsel declared an impasse.

11. Following the March 1, 2019 Case Management Conference, I initiated meet and confer efforts again with counsel for Defendant regarding the issue of attorneys' fees for the purpose of attempting to resolve any disputes regarding Plaintiff's Motion for Attorneys' Fees and Costs.

12. A true and correct copy of excerpts of CPM's firm resume is attached hereto as Exhibit 4, including the biographies of counsel in this matter, Niall P. McCarthy, Justin T. Berger, former Senior Associate Adam M. Shapiro, and myself. CPM is experienced in handling complex litigation and has a long history of successful results in class action, public interest, and other types of litigation.

13. I am a graduate of Notre Dame de Namur University, the University of London, and Santa Clara University School of Law. I began working at CPM in 2010 as a Case Assistant and was promoted to Senior Paralegal in 2015. I have been a member of the bar of the state of California since 2017.

14. Senior Paralegal Valerie Barretto began working as a paralegal in 2008. She received her Paralegal Certificate in 2013 from San Francisco State University. Mrs. Barretto has been working at CPM since 2012 and was promoted to Senior Paralegal in 2017. In her role as a Senior Paralegal, she provides advanced-level comprehensive litigation support to the office and has an advanced level of knowledge and proficiency in all aspects of civil litigation.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed this 22nd day of March, 2019, in Burlingame, California.

/s/ Mallory A. Barr

MALLORY A. BARR

# **EXHIBIT 1**

**COTCHETT, PITRE & McCARTHY, LLP**

KOPP / FOIA

LODESTAR

Inception through 3/20/19

NAME	RANK	TOTAL HOURS	HOURLY RATE	TOTAL FEES
Justin T. Berger	Partner	13.60	\$ 850	\$ 11,560.00
<b>SUB-TOTAL PARTNERS</b>		13.60		\$ 11,560.00
Adam Shapiro	Sr Associate	4.40	\$ 600	\$ 2,640.00
Mallory Barr	Associate	57.90	\$ 425	\$ 24,607.50
<b>SUB-TOTAL ASSOCIATES</b>		62.30		\$ 27,247.50
Valerie De Los Santos Barreto	Sr Paralegal	3.40	\$ 325	\$ 1,105.00
Madeleine Kerr	Case Asst/Paralegal	2.50	\$ 275	\$ 687.50
<b>SUB-TOTAL PARALEGALS &amp; TECH SUPPORT</b>		5.90		\$ 1,792.50
<b>GRAND TOTAL</b>		<b>81.80</b>		<b>\$ 40,600.00</b>

# **EXHIBIT 2**

**COTCHETT, PITRE & MCCARTHY, LLP**  
**Time Slips By Client Report**

<b>Client Code</b>	0402487	<b>End Date</b>	03/20/19
<b>Customer Name</b>	Kopp/Foia		
Adam Shapiro			
Complaint			
07/20/18	Draft complaint.		1.50
		Total for Complaint	1.50
Conf Client			
07/11/18	Correspond with client.		.20
		Total for Conf Client	.20
Legal & Other Research			
04/18/18	Research FOIA regulations.		.50
05/23/18	Research FOIA law, draft response to Secret Service letter.		2.20
		Total for Legal & Other Research	2.70
		Total for Adam Shapiro	4.40
Justin Berger			
Complaint			
08/07/18	Research for complaint		3.00
08/10/18	Review and edit complaint.		4.00
08/14/18	File complaint and presser; follow-up correspondence re same.		6.60
		Total for Complaint	13.60
		Total for Justin Berger	13.60
Madeleine Kerr			
Correspondence			
04/23/18	Set up new FOIA request (.5); find new address to send request to (.5); call and email client to discuss getting his signature (.5)		1.50
04/30/18	Write and mail letter to client regarding FOIA request		1.00
		Total for Correspondence	2.50
		Total for Madeleine Kerr	2.50
Mallory Barr			
Case Management			
11/03/18	Edits to joint CMC statement and f/u re same.		.30
11/05/18	Call with client re status update; legal research re [REDACTED] edits to joint CMS; correspondence with L. Hunt re same.		2.60
11/09/18	Edits to joint CMS and correspondence with opposing counsel re same; filing re same.		1.70
02/07/19	Draft joint CMS and email to opposing counsel re same.		.60

02/12/19	Edits to joint CMS and correspondence with opposing counsel re same; f/u re same.	.30
02/13/19	Edits to joint CMS and correspondence with opposing counsel re same; f/u re same.	.30
02/22/19	Prep for and attend CMC; f/u re same.	1.20
03/01/19	Prep for and attend CMC in SF; f/u email to L. Hunt re same.	.90

Total for Case Management 7.90

#### Complaint

08/14/18	File complaint and press conference re same; f/u correspondence re same.	2.00
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Total for Complaint 2.00

#### Correspondence

08/23/18	Call with client and f/u re same.	.40
08/27/18	Call with client re magistrate and f/u re same.	.30
10/09/18	Prep for M&C call with L. Hunt and vm re same.	.60
10/24/18	Call with L. Hunt re settlement; call with client re status update.	.40
10/26/18	M&C call with L. Hunt.	.30
10/30/18	Calls with L. Hunt re settlement and filings; calls with client re same.	.70
11/14/18	ADR phone conference; call with L. Hunt re same; f/u re same; call with client re status update.	1.20
11/30/18	Call with A. Gowen; calls with client re same.	.20

Total for Correspondence 4.10

#### Correspondence Client

07/26/18	Call with client re draft complaint.	.30
08/08/18	Calls with client re complaint; edits to complaint re same; further research re [REDACTED] per client inquiry.	2.60
08/15/18	Correspondence with client re next steps; f/u re same.	.40
11/13/18	Call to client.	.20
02/11/19	Call with client re case status.	.30
03/12/19	Call with client re update and next steps and f/u re same.	.30

Total for Correspondence Client 4.10

#### Correspondence Opp Counsel

10/10/18	Correspondence with L. Hunt re M&C.	.20
10/18/18	M&C call with opposing counsel.	.20
11/07/18	Call with L. Hunt re ADR and settlement and f/u re same.	.60
12/05/18	Correspondence to L. Hunt re settlement discussions.	.30
12/11/18	Time detail to L. Hunt in furtherance of settlement discussions per request.	.60
12/19/18	F/u email to L. Hunt re settlement.	.20
12/26/18	Email to L. Hunt re settlement discussions.	.20
01/07/19	Emails to L. Hunt re f/u to settlement demand and stay for shut-down; review of stip re same.	.40
02/20/19	Response to L. Hunt re settlement offer.	.20
02/26/19	Call and vm to L. Hunt re M&C efforts re CMC and settlement.	.10
02/27/19	Emails with L. Hunt re briefing schedule and review re same.	.30
02/28/19	Emails with L. Hunt re briefing schedule and review re same.	.20
03/05/19	Emails with L. Hunt re M&C re attorneys' fees issue.	.20
03/11/19	Email to L. Hunt re M&C re fees.	.10



03/13/19	Review of time slips and categorize per L. Hunt request; M&C call and emails with L. Hunt re same; f/u re same in prep for filing motion.	1.60
03/15/19	Emails with L. Hunt re M&C re attorneys' fees and f/u re same.	.20
Total for Correspondence Opp Counsel		5.60
Investigation/Factual Research		
07/30/18	Additional research re Secret Service protection for adult children of president and f/u legal research re same.	2.80
08/03/18	Additional research re Secret Service protection for Trump's children pre- and post-inaguration and f/u legal research re [REDACTED] in prep for edits to complaint; call with client re same and f/u email re same.	3.60
10/17/18	Calls with client re next steps and questions re [REDACTED] f/u research re same and f/u call with client re same.	4.20
Total for Investigation/Factual Research		10.60
Legal & Other Research		
10/08/18	Research re [REDACTED] per client request; prepare for M&C call with L. Hunt.	2.20
Total for Legal & Other Research		2.20
Pleadings, Briefs, Pretrial Motion		
10/05/18	Review Answer and f/u research re same.	.60
03/18/19	Review prior legal research and f/u additional research re FOIA attorneys' fees recovery; review of time slips in prep for further settlement offer to L. Hunt per request; begin drafting fee motion and supporting documents.	6.20
03/19/19	Further legal research re FOIA attorneys' fees recovery; review of time slips in prep for filing; review L. Hunt letter and response re same; continue drafting fee motion and supporting docs.	6.40
03/20/19	Finalize draft fee motion and continue drafting supporting docs; call with client re same; review L. Hunt email re settlement offer and respond re same; continue review of time slips and edits to motion and declaration re same; additional legal research re anticipated arguments and edits to draft motion re same; further review and edits to motion and supporting docs.	7.40
Total for Pleadings, Briefs, Pretrial Motion		20.60
Settlement		
11/02/18	Review updated timeslip report details in prep for revised demand.	.80
Total for Settlement		.80
Total for Mallory Barr		57.90
Valerie Barretto		
Complaint		
08/13/18	Research regarding process of service on defendant for summons and complaint and report to MAB regarding same; prepare complaint for filing and service	3.40
Total for Complaint		3.40
Total for Valerie Barretto		3.40
Grand Total		81.80

# **EXHIBIT 3**

**COTCHETT, PITRE & McCARTHY, LLP**

KOPP / FOIA

Litigation Costs

Inception through March 20, 2019

<b><u>DESCRIPTION</u></b>	<b><u>AMOUNT</u></b>
Court Costs	\$ 24.45
Federal Express	\$ 28.90
Lexis/Nexis	\$ 80.22
In-house Photocopies	\$ 187.60
Postage	\$ 39.64
Service of Process	\$ 456.00
Travel	\$ 468.14
<b>TOTAL LITIGATION COSTS</b>	<b>\$ 1,284.95</b>

# **EXHIBIT 4**

# **COTCHETT, PITRE & McCARTHY, LLP**

## **ATTORNEYS AT LAW**

BURLINGAME | LOS ANGELES | NEW YORK  
WWW.CPMLEGAL.COM

## **FIRM RESUME**

### **WHO WE ARE**

Cotchett, Pitre & McCarthy, LLP, based on the San Francisco Peninsula for over 45 years, engages exclusively in litigation and trials. The firm's dedication to prosecuting or defending socially just actions has earned it a national reputation. With offices in Burlingame, Los Angeles and New York, the core of the firm is its people and their dedication to principles of law, work ethic and commitment to justice.

Most clients are referred by other lawyers who know of the firm's abilities and reputation in the legal community. We are trial lawyers dedicated to achieving justice.

## WHAT WE DO

### CONSUMER FRAUD CASES

#### ***In re: Lenovo Adware Litigation***

##### **USDC, Northern District of California**

CPM is Co-Lead Counsel in the Lenovo Adware Litigation related to surreptitiously installed malware on Lenovo computers. The complaint alleges that the adware violates privacy laws by intercepting users' behavioral data, including browsing history and electronic communications.

#### ***In re: Lumber Liquidators Chinese-Manufactured Flooring Products Marketing, Sales Practices and Products Liability Litigation***

##### **USDC, Eastern District of Virginia**

CPM is Co-Lead Counsel in the Lumber Liquidators case filed in the Eastern District of Virginia. The class action was filed against Lumber Liquidators alleging that their Chinese-manufactured laminate wood flooring products emit unsafe and dangerous levels of formaldehyde.

#### ***Credit Counseling Industry Suit names Chase, Money Management International and Others***

##### **USDC, Central District of California**

CPM filed a consumer fraud case against JP Morgan Chase & Co., Chase Manhattan Bank USA, Money Management International (also known as Consumer Credit Counseling Service) and Money Management By Mail, Inc. for fraudulent "debt counseling" and debt collections in the subprime credit industry.

#### ***Anastasiya Komarova v. MBNA America Bank, N.A.; National Credit Acceptance, Inc.***

##### **San Francisco Superior Court**

In a rare jury trial against a credit card collection agency, a San Francisco jury ruled in favor of a young woman who was the victim of an abusive campaign to force her to repay a debt she never incurred. Anne Marie Murphy and Justin T. Berger, two Associates at CPM represented Anastasiya Komarova, who was awarded \$600,000 from National Credit Acceptance, Inc. in 2008. Komarova had been subjected to nearly a year of hostile telephone calls to her work place and a spurious arbitration proceeding, all over a bogus credit card debt and despite the fact that she repeatedly told the agency she never had an account with the credit card company in question. In issuing its verdict, the San Francisco Superior Court jury described National Credit Acceptance's conduct as "outrageous." The verdict is believed to be one of the largest verdicts in the country by a sole plaintiff alleging credit abuse.

#### ***Hidden Wireless Telephone Fees***

##### **San Mateo County Superior Court**

CPM filed a class action lawsuit against AT&T Wireless, Sprint and Cingular Wireless for illegally charging subscribers for services, including "local number portability" fees, even though the services are not available. The case went to the Court of Appeal and is now back in the Superior Court.

***In re: Hewlett-Packard Inkjet Printer Litigation***

**USDC, Northern District of California**

CPM represented consumers who have been deceived by inaccurate low-on-ink warnings on Hewlett-Packard Inkjet Printers. The low-on-ink warnings appear even when there is a substantial amount of ink remaining in the ink cartridges, thereby misleading consumers into unnecessarily buying expensive ink cartridges.

***Rich v. Hewlett-Packard***

**USDC, Northern District of California**

CPM represented consumers in a class action lawsuit against Hewlett-Packard, which has designed its printers to use color ink even when printing in black and white. Hewlett-Packard does not disclose this design to consumers, who are forced to buy expensive color ink cartridges even when they only print simple black and white documents.

***Citigroup***

**San Francisco County Superior Court**

CPM filed a consolidated class action on behalf of mortgage “packing” and “flipping” victims. Nationwide class certification for settlement purposes, and final approval of settlement, 2003.

***Ameriquest***

**San Mateo County Superior Court**

CPM filed a “Bait and Switch” class action on behalf of mortgage borrowers. Class certified for all purpose in 2003. Settlement finally approved in 2005.

***Northern Trust Bank of California***

**Los Angeles County Superior Court**

CPM filed a class action on behalf of beneficiaries of fixed-fee trusts charged excess trustee fees over a 21 year period. Class certification for settlement purposes and final approval of settlement, 2005.

***Old Republic***

***Wisper v. Old Republic Title Co.***

***Verges v. Old Republic Title Co.***

**San Francisco County Superior Court**

CPM was Lead and liaison counsel in consolidated consumer class action against title company for unfair business practices regarding fee overcharges and “cost avoidance” relationships with banks. Class certified for all purposes. Verdict of \$14 million in 2001.

***Household Lending***

**USDC, Northern District of California**

CPM filed a nationwide class action on behalf of predatory lending victims. Class certification for all purposes, 2003. Final approval of settlement, 2004.

***Fairbanks Capital Corp.***

**USDC, District of Massachusetts**

CPM filed a nationwide class action against mortgage loan servicing company for charging various improper fees, costs and charges. Class certification for settlement purposes and final approval of settlement, 2004.

***Massachusetts General Life Ins. Co.***

**Santa Clara County Superior Court**

CPM filed a “vanishing premium” class action on behalf of life insurance policyholders. Class certified for all purposes, 1999.

***Commonwealth Life Ins. Co.***

**Alameda County Superior Court**

CPM filed a consumer fraud class action against provider of reverse mortgages to elderly consumers. Class certified on Business and Professional Code Violation for all purposes.

***Transamerica HomeFirst, Inc.***

**San Mateo County Superior Court**

**69 Cal. App. 4th 577 (1999)**

CPM filed a consumer fraud class action against provider of reverse mortgages to elderly consumers. Class certified on Business and Professional Code Violations for all purposes.

***Stewart Title Co. of California***

**San Mateo County Superior Court**

CPM represented 115 individual plaintiffs in 81 consolidated cases arising from pyramid scheme fraud relating to fractionalized deeds of trust.

***In re Louisiana-Pacific Corp. Inner-Seal OSB Trade Practices***

***Agius v. Louisiana-Pacific Corp.***

**USDC, Northern District of California**

CPM filed a nationwide product defect/Lanham Act class action on behalf of owners and operators of building and homes with defective and improperly certified oriented strand board wood sheathing. (Class certified and settlement finally approved, 1998).

***Executive Life***

**Los Angeles County Superior Court**

CPM filed an action by Insurance Commissioner on behalf of failed insurance company (Filed April 1991); also filed as a class action. (Settled, 1994/95).

***Goodyear Tire & Rubber Co.***

**USDC Southern District of California**

CPM filed a class action on behalf of franchisees for unfair business practices. (Settled, 1996).



***First Capital Holdings***

**San Diego County Superior Court**

CPM filed a class action on behalf of policy holders of failed insurance company. (Settled, 1992/93).

***Fidelity Federal Bank***

**USDC, Central District of California (1993)**

**824 F. Supp. 909**

**9<sup>th</sup> Circuit Court of Appeals (1996)**

**91 F. 3d 75**

CPM filed a class action on behalf of adjustable rate mortgage borrowers.

***In re: Diet Drugs (Phentermine, Fenfluramine, Dexfunfluramine) Products Liability***

**Los Angeles County Superior Court**

**USDC, Eastern District of Pennsylvania**

CPM filed a consumer fraud and product liability individual actions on behalf of approximately 100 individuals.

***Prop. 103***

***Calfarm Ins. Co. v. Deukmejian***

**48 Cal. 3d 805 (1989)**

CPM filed a lawsuit on behalf of Ralph Nader and his organization regarding Proposition 103 (rate controls on insurance carriers).

**SECURITIES AND DERIVATIVE CASES**

***In re Wells Fargo & Company Derivative Litigation***

**San Francisco Superior Court**

CPM is Lead Counsel for the Derivative Plaintiffs in the California State action against Wells Fargo's current and former officers and directors based the rampant illegal sales practices revealed in late 2016.

***In re Facebook Derivative Litigation***

**USDC, Northern District of California**

CPM is Lead Counsel for the Derivative Plaintiffs in this action against Facebook's current and former officers and directors based on Facebook's use of private information of its customers and disclosures to third parties, including Cambridge Analytica.

***In re LendingClub Securities Litigation***

**San Mateo Superior Court/USDC, Northern District of California**

CPM is Co-Lead Counsel for a certified class of shareholders alleging that LendingClub and certain officers failed to disclose material information at the time of its initial public offering. The California state court action and the related federal court action settled for \$125 million. (Settled, 2018).

***In re ProNAi Therapeutics, Inc. Securities Litigation***

**San Mateo Superior Court**

CPM is Lead Counsel seeking to represent a class of shareholders alleging that ProNAi failed to disclose material information at the time of its initial public offering relating to its developmental drug.

***In re Oportun Securities Litigation***

**San Mateo Superior Court**

CPM is Lead Counsel for a certified class of Oportun's common shareholders alleging that their ownership interests were unfairly diluted by a series of insider financing rounds led by Oportun's largest preferred shareholders, including venture capital funds that had representatives on Oportun's Board of Directors. (Settled, 2018).

***In re Medical Capital Securities Litigation***

**USDC, Central District of California**

CPM was Co-Lead Counsel for noteholders who invested in Medical Capital, a receivable company that turned out to be a Ponzi scheme. After Plaintiffs prevailed on several motions to dismiss, Bank of New York Mellon agreed to pay \$114 million to resolve the actions. Shortly thereafter, and on the eve of trial, Wells Fargo agreed to pay \$105 million dollars to resolve the actions. The combined \$219 million recovery represents one of the largest recoveries against indenture trustees in United States history and the largest Ponzi recovery in California history. (Settled, 2013).

***In re Intuitive Derivative Litigation***

**San Mateo Superior Court**

CPM was Co-Lead Counsel in a shareholder derivative action against certain current and former officers and directors of Intuitive, which sold a robotic surgical system, alleging that Intuitive failed to disclose ongoing issues with regulatory bodies and patient injuries from the system at the same time executives were reaping insider trading profits from personal trades. (Settled, 2017).

***Lehman Brothers Litigation***

**USDC, Southern District of New York**

CPM was Liaison Counsel and represented San Mateo County, Monterey County, the cities of Auburn, San Buenaventura, Burbank, and Zenith Insurance Company in a securities action relating to their investment losses in Lehman Brothers. CPM, on behalf of its clients, was the

only firm to obtain monetary recoveries from the individual defendants themselves and one of the first to pursue claims against Ernst & Young, LLP. (Settled, 2014).

***In re Homestore.com, Inc. Securities Litigation***

**USDC, Central District of California**

CPM was Lead Counsel in a securities fraud class action representing CALSTRS against Homestore.com, Inc., its senior officers and directors, its auditors, and other companies who engaged in fraudulent "roundtripping" transactions, increasing revenues by false accounting methods. In 2004 the court approved a settlement in which Homestore agreed to reform its corporate policies and pay approximately \$93 million in stock and cash. In 2011, CPM obtained a jury verdict against a Homestore executive for securities fraud. (Jury Verdict, 2011).

***HL Leasing Ponzi Scheme***

**Fresno County Superior Court**

CPM obtained a jury verdict for \$46.5 million against the top two senior officers of HL Leasing, Inc. for their involvement in a Ponzi scheme. The jury verdict came three days after the court had entered a directed verdict for \$114 million against HL Leasing, Inc., Heritage Pacific Leasing and Air Fred, LLC for a Ponzi scheme in which over 1200 victims lost approximately \$137 million. (Jury Verdict, 2011).

***Monterey County/ San Buenaventura / WaMu***

**USDC, Western District of Washington**

CPM represented Monterey County and the City of San Buenaventura relating to their investment losses in Washington Mutual. Defendants allegedly deceived investors relating to their underwriting and exposure to subprime losses, and engaged in misleading accounting practices. (Settled, 2011).

***Pay By Touch Litigation***

**San Francisco County Superior Court**

CPM represented investors, including the Getty family trusts, in a securities action against UBS Securities and former executives of Pay By Touch alleging fraud and negligent misrepresentation. (Settled, 2011).

***California State Teachers' Retirement System v. Qwest Communications***

**San Francisco County Superior Court**

CPM represented CalSTRS in a securities action against Qwest Communications International, Inc., its securities underwriters, its senior officers and directors, and its auditor, Arthur Andersen arising out of the fraud executed by Qwest's senior officers. The litigation strategy resulted in a \$46.5 million settlement for CalSTRS alone, compared to the entire \$400 million class settlement. CalSTRS' individual settlement is approximately 11.6% of the total class settlement. CalSTRS also recovered over 50% of its actual damages, compared to a 6% class recovery. This is an exceptional settlement in a securities litigation and became the subject of securities panel discussions. (Settled, 2007).

***California State Teachers' Retirement System v. AOL Time Warner***

**Los Angeles County Superior Court**

CPM represented CalSTRS in a securities action against AOL Time Warner, its securities underwriters, its senior officers and directors and its auditor, Ernst & Young ("E&Y") alleging violations of state and federal securities law. CalSTRS was able to recover \$107.4 million in settlement, representing 80% of its losses and over 7 times what it would have recovered if it had remained a member of the Class. Our firm's participation in the CalSTRS/AOL Time Warner litigation was also at the cutting edge of California securities law development. We obtained a ruling from the Los Angeles Superior Court holding that the Supreme Court ruling in *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005) did not apply to actions brought under the California securities laws. We also were one of the first firms to litigate the issue of reliance as it relates to index investing, an issue of significant importance to all pension funds. This litigation demonstrates our firm's commitment to fighting to ensure that federal and state securities laws are able to protect injured investors and preserve the integrity of America's securities markets. (Settled, 2007).

***Worldcom***

***The Regents of the University of California v. Salomon Smith Barney, Inc., et al.***

**USDC, Southern District of New York**

CPM represented the Regents of the University of California in an individual securities action WorldCom, Inc., its underwriters and its officers and directors, including Bernard Ebbers, relating to a massive multibillion accounting fraud which resulted in the bankruptcy of one of the largest telecommunications companies in the United States. Regents had invested in WorldCom securities prior to the Class Period and would have recovered nothing from the settlement. This was one of the first cases to successfully bring a holder's claim under California's blue sky laws, as recognized by the California Supreme Court in *Small v. Fritz* (2003) 30 Cal.4th 167. (Settled, 2006).

***In re Oracle Derivative Litigation***

**USDC, Northern District of California**

CPM was Co-Lead Counsel for investors in a shareholder derivative complaint on behalf of Oracle Corporation against certain members of its Board of Directors and certain senior officers for breach of fiduciary duty and abuse of control relating to the over-billing of the US government for software products.

***In re Novellus Systems, Inc. Litigation***

**Santa Clara County Superior Court**

CPM was Co-Lead Counsel in a class action representing the Louisiana Municipal Police Employees' Retirement System against Novellus' Board of Directors for alleged breaches of their fiduciary duties arising from a merger with Lam Research Corporation. CPM alleged that the merger was for inadequate consideration and was arrived at through an unfair process that did not adequately safeguard the interest of Novellus shareholders. (Settled, 2012).

***In re Mutual Funds Investment Litigation***

**USDC, District of Maryland**

CPM was Lead Counsel in a securities fraud class action filed against Janus mutual funds for allowing select investors to make substantial profits at the expense of other investors. The suits were filed in September 2003 and accuse the funds of allowing “market timing” and “late trading” by its largest customers resulting in millions of dollars of losses to other shareholders. (Settled, 2010).

***In re Genentech/Roche Shareholder Litigation***

**San Mateo County Superior Court**

CPM was Co-Lead Counsel in a class action alleging several defendants breached their fiduciary duty relating to a proposed buy-out offer of Genentech by its largest and controlling shareholder, Roche Holdings. (Settled, 2009).

***Merrill Lynch Class Action***

**USDC, Southern District of New York**

CPM represented former First Republic Bank shareholders in a securities class action against Merrill Lynch & Co., which is accused of hiding billions of dollars of losses related to subprime mortgages while the companies' merger was pending. Defendants allegedly misled First Republic shareholders about its finances as they considered Merrill's \$1.8 billion takeover of the company. (Settled, 2009).

***In re Apple Computer Inc. Derivative Litigation***

**USDC, Northern District of California**

CPM was Lead Counsel in a derivative action on behalf of Apple relating to backdating of stock options granted to various executives. The action alleged violations of federal and California state securities statutes, and resulted in Settlement of cash and novel corporate governance reform. (Settled, 2008).

***Madoff Litigation***

**New York State Supreme Court**

CPM represents investors in a securities action naming individuals and entities who are alleged to be liable in the \$65 billion Ponzi Scheme perpetrated by Bernard Madoff. Plaintiffs allege that Defendants, JP Morgan and the Bank of New York as well as accounting firm KPMG LLP and their international counterparts, KPMG UK and KPMG International were primary players

responsible for the fraud. Partners Joseph Cotchett and Nancy Fineman were the first and only attorneys to interview Bernard Madoff in prison.

***American Continental Corp./Lincoln Sav. & Loan***

**794 F. Supp. 1424, UDSC, District Court of Arizona**

CPM represented shareholder and bondholder victims of Charles Keating in a securities class action, and related insurance coverage litigation, including lengthy jury trial. (Largest jury verdict against an individual defendant in American history – \$3.5 billion against Keating and others.) (Jury Verdict).

***Technical Equities Litigation***

***Abelson v. National Union***

**Santa Clara County Superior Court**

CPM represented hundreds of individual plaintiffs in a fraud litigation, and subsequent insurance coverage and insurance bad faith litigation, and included three lengthy jury trials and three court trials. (Largest verdict in California for 1991).

***Bily v. Arthur Young & Co.***

**3 Cal. 4th 370 (1992)**

CPM represented shareholders in a professional negligence action against Arthur Young & Co. for materially misleading financial statements. Seminal case in California discussing auditor liability to shareholders.

***In re Federal Home Loan Mortgage Corp. (Freddie Mac) Securities Litigation***

**USDC, Southern District of New York**

CPM was Lead Counsel in securities class action against Freddie Mac executives alleging that they misrepresented material facts regarding Freddie Mac's business prior to government conservatorship. The losses suffered by the Class of preferred shareholders exceed \$6 billion. (Settled).

***Diversified Lending Group***

**Los Angeles County Superior Court**

CPM represents investors in a securities action involving a multi-hundred million dollar fraudulent investment scheme perpetrated by Diversified Lending Group, Inc., Applied Equities, Inc. Bruce Friedman, and Diane Cano. (Settled).

***In re Informix Derivative Litigation***

***Smurthwaite v. White***

**San Mateo County Superior Court**

CPM was Lead Counsel in consolidated shareholder derivative actions against corporate officers, directors and accountants relating to accounting fraud. (Settled, 2000).

***In re Sybase Derivative Litigation***  
**Alameda County Superior Court**  
***Krim v. Kertzman***

**Alameda County Superior Court**

CPM was Lead Counsel in consolidated shareholder derivative actions against corporate officers and directors. (Settled, 2000).

***CBT Group Litigation***

***Durrett v. McCabe***

**San Mateo County Superior Court**

CPM represented holders of American Depository Shares in a derivative litigation against officers and directors of CBT Group PLC for accounting fraud and insider trading. (Settled, 2000).

***Orange County Securities Litigation***

***Smith v. Merrill Lynch***

**Orange County Superior Court**

CPM represented debt securities holders of Orange County and its investment pool participants in a securities class action. (Settled, 1997).

***Acclaim Securities Litigation***

***Campbell v. Petermeier, et al.***

**Alameda County Superior Court**

***Campbell v. Acclaim Entertainment, Inc., et al.***

**USDC, Eastern District of New York**

CPM represented investors in a securities class action arising from a stock swap merger. (Settled, 1997).

***In re Pilgrim Securities Litigation***

**USDC, Central District of California**

CPM represented investors in a mutual fund fraud class action. (Settled, 1997).

***West Valley Litigation***

***Knight v. Rayden***

**Santa Clara County Superior Court**

CPM represented real estate limited partnership investors in a securities class action. (Settled, 1996).

***In re Oak Technologies Securities Litigation***

**Santa Clara County Superior Court**

CPM served as Co-Lead Counsel for investors in a securities class action for insider trading and abuse of control. (Settled).



***In re HomeFed Securities Litigation***

**USDC, Southern District of California**

CPM represented bankrupt S&L as plaintiff in action against former S&L officers, directors and accountants for mismanagement and breach of fiduciary duty. (Settled).

***Giorgetti v. BankAmerica Corp.***

**San Francisco County Superior Court**

CPM represented shareholders in a class action for failure to pay control premium in connection with merger between Bank of America and NationsBank Corp. (Settled).

***Harmsen v. Smith***

**693 F. 2d 932 (9th Cir. 1982)**

**586 F. 2d 156 (9th Cir. 1978)**

**542 F. 2d 496 (9th Cir. 1976)**

CPM represented shareholders of United States National Bank, San Diego in a securities class action against C. Arnholt Smith and other officers, directors, and insiders. Multi-million dollar jury verdicts upheld on appeal. The first securities class action tried on both liability and damages to a jury.

***J. David Dominelli Litigation***

***Rogers & Wells v. Superior Court***

**175 Cal. App. 3d 545 (1986)**

CPM represented hundreds of clients in investor fraud litigation in San Diego County Superior Court including a lengthy jury trial.

**PUBLIC ENTITY CASES**

***People of the State of California v. Atlantic Richfield, et al. (“Lead Paint Litigation”)***

**Santa Clara County Superior Court**

CPM represented the People of the State of California alongside ten California Cities and Counties in a public nuisance action in the Complex Department of Santa Clara County Superior Court. The six defendants included the largest historical manufacturers of lead-based paint and lead pigments in the country. The case was initially filed in March of 2000, and was finally brought to trial in the summer of 2013. The Lead Paint Litigation is considered one of the largest representative public nuisance actions in the country ultimately resulting in a judgment for the People in the amount of \$1.15 Billion.

***LIBOR-Based Financial Instruments Antitrust Litigation***

**USDC, Southern District of New York**

CPM represents the Counties of San Mateo and San Diego, the Cities of Richmond and Riverside, East Bay Municipal Utility District, and other public entities who invested in financial instruments that were tied to the London Interbank Offered Rate, or LIBOR. LIBOR is the world's benchmark rate used for setting interest rates on a wide range of financial instruments, from car and home loans to municipal derivatives. LIBOR is set daily based on the borrowing costs reported by



members of the British Bankers' Association. The complaints allege that the member banks conspired to suppress LIBOR, both to reduce the amounts they were required to pay on LIBOR-linked transactions, and to increase their perceived strength in the market. Plaintiffs invested significant sums in financial instruments, such as interest rate swaps and corporate securities, the rates of return of which were tied to LIBOR, and earned less on those investments as a result of the alleged suppression of LIBOR.

***Municipal Derivative Investment Antitrust Litigation***

**USDC, Southern District of New York**

Along with co-counsel, CPM represents Los Angeles and numerous public entities who purchased Guaranteed Investment Contracts ("GICs") and other derivative investments. GICs and derivative investments are purchased from financial institutions, insurance companies, and others through a competitive bidding process overseen by brokers. They are purchased when public entities issue tax-exempt municipal bonds to raise funds to finance public works projects and have funds that are not immediately needed for the project. CPM's investigation has uncovered, and the complaints allege, that the competitive bidding process is a sham as securities sellers and brokers in the derivative investment market have engaged in a conspiracy to allocate the market and rig the bidding process in violation of antitrust law and common law.

***Municipal Bond Insurance Antitrust Litigation***

**San Francisco County Superior Court**

CPM represents Los Angeles and numerous public entities who issued tax-exempt municipal bonds to raise funds to finance public works projects and were compelled to purchase insurance for those bond issuances. When a public entity issues bonds, its credit rating determines the interest it will pay to bond holders. To reduce the interest rate, public entities have had to purchase bond insurance to improve their credit worthiness (despite an historical default rate of less than 0.1 percent). CPM's investigation has uncovered and the complaints allege that the bond insurance companies violated antitrust law and common law by conspiring to maintain a dual credit rating system that discriminates against public entities (versus private corporations), causing public entities to pay unusually high premiums to purchase unnecessary bond insurance, and failure of the bond insurance companies to disclose they made risky investments in the subprime market that has led to the downgrading of the bond insurers' own credit ratings.

***San Francisco Unified School District***

**Sacramento County Superior Court**

CPM filed a consumer fraud and negligence case against a Fortune 250 energy company in a scheme to defraud the district in connection with an energy contract to upgrade schools and help the district save in energy costs. (Settled in June of 2004 for \$43.1 million)

***National Gas Anti-Trust Cases I, II, III, & IV***

**San Diego Superior Court**

CPM represented eleven public entities and others for the reporting of false information by non-core natural gas retailers to published price indices to manipulate the natural gas market during the

California energy crisis. CPM successfully prosecuted this case, concluding in approximately \$124 Million in settlements.

***In re Commercial Tissue Products Public Entity Indirect Purchaser Antitrust Litigation  
County of San Mateo v. Kimberly-Clark Corp.***

**San Francisco County Superior Court**

CPM served as the Public Entity Co-Liaison Counsel, and filed an antitrust class action on behalf of public entity consumers of commercial sanitary paper products for an alleged price-fixing conspiracy among producers. This case settled for approximately \$2,250,000.

***Judicial Counsel of California***

**USDC, Northern District of California**

CPM successfully defended the Chief Justice of the State of California and the Judicial Counsel of California in an action brought by the National Association of Securities Dealers (NASD) to invalidate California's Ethics Standards for Neutral Arbitrators by demonstrating that the 11th Amendment bars federal actions against these state actors.

***Federal Energy Regulatory Commission (FERC)***

**United States Court of Appeals, 9th Circuit**

CPM represented the California State Senate, the California State Assembly, and the City of Oakland in an action against FERC. Petitioned the Court to issue a writ of mandamus to compel FERC to take action to ensure just and reasonable rates for energy in California and the Western states.

***Central Sprinkler County of Santa Clara v. Central Sprinkler Corp. Santa Clara County Superior Court Hart v. Central Sprinkler Corp.***

**Los Angeles County Superior Court**

CPM filed a consumer class action against manufacturer of automatic fire suppression sprinklers for product defects and consumer fraud. (Class certified and settlement finally approved, 1999). 193 Cal. App. 3d 802 (1987). Class action for antitrust and unfair business practices.

**ANTITRUST CASES**

***Auto Parts Antitrust Litigation***

**USDC, Eastern District of Michigan**

CPM is co-lead counsel on behalf of consumers against manufacturers of auto parts, including bearings, fuel senders, heater control panels, safety systems, instrument control clusters and wire harnesses, for a world-wide conspiracy to fix prices for those parts for use in cars and trucks.

***Webkinz Litigation, Nuts for Candy v. Ganz Inc., et al.***

**USDC, Northern District of California**

CPM was lead counsel representing a proposed class of persons or entities in the United States who ordered Webkinz from Ganz Inc. on the condition that they also order products from Ganz's

"core line" of products. The complaint alleged that Ganz conditioned the purchase of its popular Webkinz plush line toy with a minimum \$1,000 purchase of non-Webkinz "core" line products in violation of federal antitrust laws. On September 17, 2012, Hon. Richard Seeborg of the Northern District of California approved a class action settlement on behalf of a class of small business retailers against Ganz Inc. for alleged antitrust violations where customers were required to purchase unwanted products as a condition to purchasing Ganz's popular Webkinz Toy. (Settled, 2012).

***In re Transpacific Passenger Air Transportation Antitrust Litigation***

**USDC, Northern District of California**

CPM is the court-appointed Co-Lead counsel for a proposed class of purchasers who paid fuel surcharges illegally charged by defendants on long-haul passenger flights for transpacific routes. Plaintiffs have settled with Japan Airlines for \$10 million.

***In re: Plasma Derivative Protein Therapies Antitrust Litigation***

**USDC, Northern District of California**

CPM is lead counsel for indirect purchasers in this antitrust class action alleging price-fixing in the market for the life-saving blood products albumin and immunoglobulin.

***Freight Forwarders Antitrust Litigation***

**USDC, Eastern District of New York**

CPM is Co-Lead Counsel for Direct Purchasers of Freight Forwarding services in the United States and filed a complaint alleging that the major providers of Freight Forwarding conspired to fix the prices of such services in violation of U.S. federal antitrust law (15 U.S.C. § 1). The action has already led to multiple settlements for the benefit of the class.

***In re Cathode Ray Tube (CRT) Antitrust Litigation***

**USDC, Northern District of California**

CPM is an Executive Committee Member and represents a class of direct purchaser plaintiffs against manufacturers of cathode ray terminals ("CRT") whose prices were artificially raised, maintained or stabilized at a supra-competitive level by defendants and their co-conspirators. Settlements amounting to \$79.5 million have been reached with four of the defendants.

***In re Static Random Access Memory (SRAM) Antitrust Litigation***

**USDC, Northern District of California**

The Court appointed CPM as sole Lead Counsel for direct purchaser plaintiffs of Static Random Access Memory ("SRAM") chips. CPM successfully secured a \$77 million settlement on behalf of plaintiffs. Important legal rulings were reached on cutting edge issues such as the extent to which the United States antitrust laws apply to foreign conduct, standing of class representatives and the proper showing for class certification. (Settled, 2011).

***In re Dynamic Random Access Memory (DRAM) Antitrust Litigation***

**USDC, Northern District of California**

CPM served as chair of the Discovery Committee in a multidistrict litigation arising from the price-fixing of DRAM, a form of computer memory. Shortly before the scheduled trial, class counsel reached settlements with the last remaining defendants, bringing the total value of the class settlements to over \$325 million.

***In re Lithium Batteries Antitrust Litigation***

**USDC, Northern District of California**

The Court appointed CPM as Co-Lead Counsel on behalf of direct purchasers of lithium-ion rechargeable batteries that defendants allegedly conspired to fix the price on.

***Municipal Derivative Investment Antitrust Litigation***

**USDC, Southern District of New York**

Along with co-counsel, CPM represents Los Angeles and numerous public entities who purchased Guaranteed Investment Contracts (“GICs”) and other derivative investments. GICs and derivative investments are purchased from financial institutions, insurance companies, and others through a competitive bidding process overseen by brokers. They are purchased when public entities issue tax-exempt municipal bonds to raise funds to finance public works projects and have funds that are not immediately needed for the project. CPM’s investigation has uncovered, and the complaints allege, that the competitive bidding process is a sham as securities sellers and brokers in the derivative investment market have engaged in a conspiracy to allocate the market and rig the bidding process in violation of antitrust law and common law.

***In re Digital Music Antitrust Litigation***

**USDC, Southern District of New York**

CPM was appointed to the Steering Committee in this class action brought on behalf of all persons who paid inflated prices for music sold as digital files.

***E&J Gallo Winery v. EnCana Energy Services, et al.***

**USDC, Eastern District of California**

CPM successfully represented E. & J. Gallo Winery in an antitrust action against natural gas companies for manipulating energy prices, which led to the 2000-2001 California energy crisis, in which energy companies not only gouged the State of California and its residents of billions of dollars but led to rolling blackouts throughout California. E. & J. Gallo Winery is one of the largest natural gas users in the State of California and it suffered millions of dollars in losses. CPM’s aggressive prosecution of this case resulted in the case settling on the eve of trial for a substantial sum. CPM’s efforts led to the landmark Ninth Circuit opinion on the filed rate doctrine at E. & J. Gallo Winery v. EnCana Corporation, 503 F.3d 1027 (9th Cir. 2007).

***Kopies, Inc, et al. v. Eastman Kodak Co.***

**USDC, Northern District of California**

CPM was appointed Co-Lead counsel, and successfully prosecuted an antitrust class action on behalf of copier service firms against parts manufacturer for illegal tying of products and services. CPM successfully reached a \$45 million settlement with Kodak on behalf of plaintiffs.

***Municipal Bond Insurance Antitrust Litigation***

**San Francisco County Superior Court**

CPM represents Los Angeles and numerous public entities who issued tax-exempt municipal bonds to raise funds to finance public works projects and were compelled to purchase insurance for those bond issuances. When a public entity issues bonds, its credit rating determines the interest it will pay to bond holders. To reduce the interest rate, public entities have had to purchase bond insurance to improve their credit worthiness (despite an historical default rate of less than 0.1 percent). CPM's investigation has uncovered and the complaints allege that the bond insurance companies violated antitrust law and common law by conspiring to maintain a dual credit rating system that discriminates against public entities (versus private corporations), causing public entities to pay unusually high premiums to purchase unnecessary bond insurance, and failure of the bond insurance companies to disclose they made risky investments in the subprime market that has led to the downgrading of the bond insurers' own credit ratings.

***In re International Air Transportation Surcharge Antitrust Litigation***

**USDC, Northern District of California**

CPM served as Co-Lead Counsel for a class of purchasers who paid fuel surcharges illegally charged by defendants on long-haul passenger flights for transatlantic routes. Plaintiffs secured settlements on behalf of the class with Defendants Virgin Atlantic Airways, LTD and British Airways Plc worth approximately \$204 million. (Settled, 2009).

***In re Optical Disk Drive (ODD) Antitrust Litigation***

**USDC, Northern District of California**

CPM is a member of the executive committee in this multidistrict litigation alleging a conspiracy that manufacturers of optical disk drives ("ODD") fixed prices of ODD's sold directly to plaintiffs in the United States. Plaintiffs have reached a \$26 million settlement with the HLDS defendants.

***Air Cargo Shipping Services Antitrust Litigation***

**USDC, Eastern District of New York**

CPM, along with co-counsel, is the court-appointed lead counsel for a proposed class of U.S. indirect purchasers of international air freight services. The case alleges that the providers of international air freight services conspired to fix the prices of such services, including fuel surcharges. The case names almost forty international air freight carriers as defendants. The claims of the United States indirect purchasers is brought under the antitrust laws and consumer protection laws of various U.S. states. The Court granted approval to a settlement with defendants Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines, Ltd. (Settled, 2009).

***Toyota Motor Sales USA, Inc.***

***Livingston v. Toyota Motor Sales USA, Inc.***

**USDC, Northern District of California**

CPM filed an antitrust class action under Sherman Act by purchasers of Toyota vehicles for secret rebates. (Settled, 1997).

***Hip And Knee Implant Marketing Litigation***

**USDC, Northern District of California**

CPM, with co-counsel, has filed two complaints on behalf of proposed classes of persons who underwent hip or knee implant surgery. The complaints allege that the major manufacturers of hip and knee implants have engaged in a pervasive kickback scheme, using phony consulting agreements with orthopedic surgeons, to improperly funnel money to doctors and hospitals in return for choosing the manufacturer's device during surgeries. This scheme artificially raised the costs of hip or knee implants paid for by members of the proposed class in violation of state antitrust and consumer protection laws.

***In re Commercial Tissue Products Public Entity Indirect Purchaser Antitrust Litigation***

***County of San Mateo v. Kimberly-Clark Corp.***

**San Francisco County Superior Court**

CPM filed an antitrust class action on behalf of class of public entity consumers of commercial sanitary paper products against alleged price-fixing conspiracy among producers. (Appointed co-lead counsel for public entity class, 1998).

***Dry Creek Corporation v. El Paso Corporation***

**San Diego County Superior Court**

CPM filed an antitrust action against El Paso for withholding natural gas from California in order to drive up prices, which was successfully resolved on behalf of the Plaintiff.

***In re Hydrogen Peroxide Antitrust Litigation***

**USDC, Eastern District of Pennsylvania**

CPM filed an antitrust class action for conspiracy to fix prices of hydrogen peroxide manufactured and sold by defendants who were engaged in an alleged price-fixing conspiracy.

***In re Intel Corporation Microprocessor Antitrust Litigation***

**USDC, District Court of Delaware**

CPM represents entities against Intel Corporation for antitrust violations relating to monopolization. CPM has been active in assisting lead counsel with discovery.

***National Gas Anti-Trust Cases I, II, III, & IV***

**San Diego Superior Court**

CPM represented eleven public entities and others for the reporting of false information by non-core natural gas retailers to published price indices to manipulate the natural gas market during the

California energy crisis. CPM successfully prosecuted this case, concluding in approximately \$124 Million in settlements.

***Bathroom Fittings Cases***

**USDC, Northern District of California**

CPM was a member of the Executive Committee in an antitrust class action for a conspiracy to fix prices of Bathroom Fitting manufactured by defendants participating in an alleged price-fixing conspiracy.

***Magazine Paper***

**San Francisco County Superior Court**

CPM filed an antitrust class action for price-fixing conspiracy against magazine paper products International Paper Co., MeadWestvaco Corporation, Norse Skog, Stora Enso, Sappi Limited, S.D. Warren Company and others.

***Foundry Resins***

**USDC, Southern District of Ohio**

CPM filed an antitrust class action for conspiracy to fix prices of resins manufactured by Ashland Inc., Ashland Specialty Chemical Company, Borden Chemical Inc., Delta HA, Inc., HA International LLC.

***In re Automotive Refinishing Paint Cases***

**Alameda County Superior Court**

CPM was appointed Co-Liaison Counsel in an antitrust class action for conspiracy to fix the price of auto paint by manufacturers engaged in an alleged price-fixing conspiracy. The class was certified in 2004.

***In re Methionine Antitrust Litigation***

**USDC, Northern District of California**

CPM was appointed Co-Lead Counsel in this antitrust class action against several methionine manufacturers involved in a conspiracy to fix the prices of and allocate the markets for methionine. This case settled for \$107 million.

***In re Citric Acid Antitrust Litigation***

**USDC, Northern District of California**

CPM served as Co-Lead Counsel in an antitrust class action against the five largest sellers of citric acid in the United States, who conspired to raise and fix the price of citric acid at artificially high levels. Co-Lead counsel successfully certified the class in October 1996. Co-Lead Counsel also reached approximately \$86.5 million in combined settlements with defendants Archer Daniels Midland Co., Hoffmann-La Roche Inc., Jungbunzlauer, Inc., Haarmann & Reimer Corp., and Cerestar Bioproducts B.V.



***In re Beer Antitrust Litigation***

**USDC, Northern District of California**

CPM was appointed Co-Lead counsel in an antitrust class action on behalf of specialty beer brewers against Anheuser-Busch, Inc. for attempt to monopolize U.S. beer industry by denying access to distribution channels.

***In re Sodium Gluconate Antitrust Litigation***

**USDC, Northern District of California**

CPM served as Lead Counsel in an antitrust class action against defendants who allegedly price fixed sodium gluconate, and industrial cleaning agent. CPM successfully certified the class, and reached a settlement on behalf class plaintiffs in the amount of \$4,801,600.

**PRODUCT LIABILITY CASES**

***In re Apple Device Performance Litigation***

**USDC, Northern District of California**

CPM has been appointed interim Co-Lead Counsel in a multi-district litigation against Apple, Inc. regarding its decision to withhold material information from iPhone users relating to the installation of software updates that degraded performance of the iPhones.

***In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation***

**USDC, Central District of California**

CPM was Co-Lead counsel in a class action against Toyota Motor Corporation and its U.S. sales and marketing arms, Toyota Motor Sales, U.S.A., Inc. and Toyota Motor North America, Inc. United States District Judge James V. Selna appointed Frank M. Pitre as Co-Lead Counsel for the Economic Loss Committee in the Toyota sudden unintended acceleration litigation. The MDL involves more than 200 lawsuits divided into two groups: those seeking losses on behalf of consumers and others who have lost value on their Toyotas, and those seeking damages for people who have been injured or killed in a Toyota. (Settled, 2012 - \$1.3 billion).

***Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation***

**USDC, Northern District of California**

CPM was co-lead trial counsel in the In Re: Bextra and Celebrex Mktg., Sales Practices & Product Liability Litigation, which culminated in Pfizer agreeing to pay \$894 million to settle consolidated injury and class action cases related to its pain killers Bextra & Celebrex.

***Vioxx Product Liability Litigation***

**USDC, Northern District of New York**

CPM represents a number of individuals who suffered medical injuries such as heart attacks and strokes after taking the prescription drug Vioxx. The drug was withdrawn from the market by its manufacturer and distributor, Merck & Co., Inc., after evidence emerged linking the drug to heart attacks, strokes, sudden cardiac death and other serious cardiovascular risks.



***Sharper Image Corporation v. Consumers Union of United States***

**USDC, Northern District of California**

CPM was successful in defending under California's Anti-SLAPP statute of product disparagement claim brought by Sharper Image relating to reviews of Sharper Image's Ionic Breeze air cleaner published in Consumer Reports.

***Isuzu Motors Ltd. v. Consumers Union of the United States, Inc.***

**USDC, Central District of California**

CPM represented defendant publisher of Consumer Reports in defamation/product disparagement litigation brought by auto manufacturer against non-profit consumer testing organization. Jury verdict for Consumers Union after a two-month jury trial.

***Suzuki Motor Corp. Japan v. Consumers Union of the United States, Inc.***

**USDC, Central District of California**

CPM represented defendant publisher of Consumer Reports in defamation/product disparagement litigation brought by auto manufacturer against nonprofit consumer testing organization. Summary judgment in favor of defendants was granted in May 2000.

***Diet Drug Litigation***

**Los Angeles County Superior Court**

**USDC, Eastern District of Pennsylvania**

CPM represented approximately 100 individuals in consumer fraud and product liability individual actions.

***Rhonda Albom, et al. v. Ford Motor Company/Firestone Tires***

**Los Angeles Superior Court**

CPM represented a young child and her mother who were injured when their Ford Explorer veered out of control and rolled over in Half Moon Bay, California. The case was one of several against Ford Motor Company and Firestone Tires consolidated before the Superior Court of Los Angeles.

***Swine Flu Immunization Products Litigation***

***Adleson v. United States***

**USDC, Northern District of California (1981)**

**523 F. Supp. 459**

**USDC, District of Columbia (1980)**

**89 F.R.D. 695**

MDL actions for product liability.

***Bausch & Lomb Contact Lens Solution Product Liability Litigation***

**USDC, District of South Carolina**

CPM represents individuals who sustained serious eye injuries as a result of the use of the contact lens solution ReNu with MoistureLoc. The product was withdrawn from the market by its manufacturer and distributor, Bausch & Lomb, after it was associated with fungal keratitis (a rare type of eye infection).

***Dephlia Davis, et al. v. Actavis Group, et al.***

**USDC, Northern District of California**

CPM represented individuals who were injured or killed after injecting the drug Digitek, which was formulated and distributed by the manufacturers and suppliers at a level more than double the FDA prescribed maximum.

***Trawick v. Parker-Hammifin, et al.***

**Monterey County Superior Court**

CPM successfully prosecuted a product liability claim against the manufacturer and supplier of a defective rubber hose coupling installed on a forklift which failed and killed a construction foreman at the Monterey Plaza Hotel.

***Austin Hills, et al. v. S & G Ragsdale Equipment Co., LLC, et al.***

**Napa County Superior Court**

CPM represented the Hills family in a product liability/negligence claim against the parties responsible for the defective operation of a truck/trailer hitch system which caused a 5 ton trailer with drilling equipment to disengage, then swerve into the opposing lane of traffic killing Erika Hills, a resident of Napa.

***Munoz, et al. v. Bayer Corporation, et al.***

**San Joaquin County Superior Court**

CPM successfully represented multiple individuals who were killed or injured after ingesting the drug Baycol, which was promoted by Bayer Pharmaceutical without alerting users of a severe muscle adverse reaction known as rhabdomyolysis.

***In re Cable News Network and Time Magazine "Operation Tailwind" Litigation,***

***Sheppard v. Cable News Network, Inc.***

**USDC, Northern District of California**

CPM represented Vietnam veterans in an action against Time and CNN who falsely reported to have committed war crimes in Laos.

**QUI TAM CASES**

***Medical Laboratories Medi-Cal Fraud Case***

**Sacramento County Superior Court**

CPM represented a whistleblower, Chris Riedel, who owns a lab company, Hunter Laboratories of Campbell, California. The California Attorney General's office joined the case in late 2008. The lawsuit alleged that, despite state law requiring that California's Medi-Cal program receive the lowest price for lab services, Quest Diagnostics, the largest lab in California, and LabCorp, the second largest, routinely billed California prices far above what it was charging others. The case settled in 2011, recovering \$301 million in taxpayer money from the lab defendants, including \$241 million from Quest Diagnostics, Inc. The \$241 million settlement is the largest False Claims

Act recovery in California history, and the largest single-state False Claims Act settlement ever in United States history.

***California ex rel. Richardson v. Ischemia Research & Education Foundation***

**San Francisco Superior Court**

CPM filed a Qui Tam California False Claims Act case against research foundation for failure to pay direct and overhead costs in clinical drug studies to its host university. (Settled, 1997)

***United States v. Columbia HCA***

**USDC, Northern District of California**

CPM filed a Qui Tam False Claims Act litigation against healthcare provider for false billing.

***United States v. Tenet Healthcare Corporation***

**USDC, Central District of California**

CPM filed a Qui tam False Claims Act litigation against healthcare provider for false claims for payment.

**BUSINESS CASES**

***Humboldt Creamery Litigation***

**Humboldt County Superior Court**

CPM is representing the Liquidating Trustee of Humboldt Creamery, LLC in a lawsuit filed against the company's former Chief Executive Officer, Richard Ghilarducci, its Chief Financial Officer, Ralph A. (Tony) Titus and its independent auditor, Frank X. Gloeggler alleging financial fraud. Defendants are alleged to have had manipulated financial data by creating different sets of financial statements for different purposes and inflating revenue.

***Siller v. Siller Brothers, Inc.***

**Sutter County Superior Court**

CPM successfully represented a minority shareholder in a dissolution proceeding and trial establishing a value for his corporate interest at more than double that of the court appointed appraisers.

***Olympus v. Taisei Construction***

**Santa Clara County Superior Court**

CPM represented the owner of the prestigious Calistoga Ranch Resort in an action for fraudulent overbilling against Taisei Construction.

**ENVIRONMENTAL AND TOXIC CASES**

***Lawsuit Against Caltrans to Protect Ancient Redwoods***

**USDC, Northern District of California**

**San Francisco County Superior Court**

CPM filed an environmental action against Caltrans challenging Caltrans' approval of a controversial highway widening and realignment project alleging that they violated the California Environmental Quality Act in approving the project.

***Cosco Busan Oil Spill***

***Tarantino, et al. v. Hanjin Shipping Co., Ltd., et al.***

**San Francisco County Superior Court**

***Loretz, et al. v. Regal Stone, Ltd., et al.***

**USDC, Northern District of California**

CPM is co-lead counsel for settlement and litigation classes of San Francisco Bay fishermen economically injured by the November 7, 2007 Cosco Busan oil spill. (Partially Settled, 2010).

***Californians for Native Salmon Litigation***

**221 Cal. App. 3d 1419 (1990)**

Representative action regarding approval of timber harvest plans.

***Avila Beach Environmental Litigation***

***Poist v. Unocal Corporation***

**San Luis Obispo County Superior Court**

CPM represents owners of interest in timeshares in cost-side towns in an environmental toxic class action arising out of petroleum contamination and remediation efforts.

***Cambria Community Services District/Chevron Litigation***

**San Luis Obispo County Superior Court**

CPM represented Cambria Community Services District against Chevron for a leak which contaminated the town's drinking water supplies with MTBE. The firm was successful in securing a settlement for Cambria which permitted it to insure that alternate water sources were available for the community.

***Santa Maria Valley Litigation***

***Story, et al. v. Unocal Corporation, et al.***

**Santa Barbara County Superior Court**

***Span, et al. v. Unocal Corporation, et al.***

**Santa Barbara County Superior Court**

***Adelhelm, et al. v. Unocal Corporation, et al.***

**Santa Barbara County Superior Court**

***Chabot, et al. v. Unocal Corporation, et al.***

**Santa Barbara County Superior Court**

CPM represented homeowners and families living in Santa Maria, California, an old oil field which was the setting of the film *There Will be Blood*. When production in the oil field tapered off, residential communities were constructed atop the old oil fields – and on top of the waste which the oil companies left behind. The firm has been successful in providing remedies to these families, who have been able to leave behind their polluted homes and communities and restart their lives.

***Burbank Litigation***

**USDC, Central District of California**

CPM represented homeowners for nuisance arising from environmental remediation efforts at site of massive toxic contamination.

***Voisinet Litigation***

***Voisinet, et al. v. Unocal, et al.***

**San Luis Obispo County Superior Court**

CPM represented home developers for nuisance and fraud arising out of petroleum contamination.

***Bridgestone/Firestone Litigation***

***Dower, et al. v. Bridgestone/Firestone North American Tire, LLC, et al.***

**USDC, Northern District of California**

CPM represented homeowners for toxic groundwater contamination released from the Crazy Horse Sanitary Landfill in Salinas, California.

**AVIATION CASES**

***Asiana Flight 214 Crash***

**USDC, Northern District of California**

CPM is currently representing several passengers who were aboard Asiana Airlines Flight 214 that crashed and caught fire while landing at San Francisco International Airport on July 6, 2013.

***Tesla Plane Crash Litigation***

**San Mateo County Superior Court**

CPM is representing victims of the February 17, 2010 crash of the Cessna 310R aircraft that took off from the Palo Alto Municipal Airport and collided with power lines, then crashed into multiple homes, narrowly missing a day care center. All three people killed in the plane crash were Tesla engineers.

***Alaska Airlines Litigation***

**USDC, Northern District of California**

CPM represented the survivors of one of the victims of crash of Alaska Airlines Flight 261 on January 31, 2000 off the coast of California.

***Singapore Airlines Litigation***

***Thomas v. Singapore Airlines***

**USDC, Central District of California**

CPM represented victims of the October 31, 2000 crash of a Singapore Airlines passenger jet in Taiwan in which 83 people were killed and dozens injured.

***Montoya v. Bell Helicopter***

**USDC, Northern District of Texas**

CPM represented the wife and children of the executive and against the helicopter manufacturer and the French company, which supplied the component parts. This case involved pursuit of a claim for product liability in the design of the engine shroud incorporated into a Bell helicopter, which crashed in the jungle of New Guinea killing a Chevron executive.

***PSA Flight 1771 Litigation***

**Los Angeles County Superior Court**

CPM represented victims of the December 7, 1989 air crash of a PSA jetliner near San Luis Obispo. The case was unique due to the focus on breaches of security by the airline and airport security, which permitted a disgruntled former airline employee to by-pass security with a gun later used to kill the pilot and crew during flight.

**CONSTRUCTION CASES**

***Delgado vs. City of Millbrae, et al.***

**Santa Clara County Superior Court**

CPM served as co-lead counsel in a successful 5-year battle against various engineers and contractors responsible for a hillside failure during the winter storms of 2001–2002.

**ELDER ABUSE CASES**

***San Mateo County Public Guardian (Muhek) v. Miller***

**San Mateo County Superior Court**

CPM filed an action on behalf of senior citizen against care giver who took life savings.

***Santa Clara Public Guardian (McCulla) v. Walia***

**Santa Clara County Superior Court**

CPM filed an action against the companies, real estate brokers and others as a result of \$1.4 million in fraudulent loans to a senior citizen.

***Alameda Public Guardian (Bowie) v. First Alliance Mortgage***

**Alameda County Superior Court**

CPM filed an action against lenders for allowing loans to be placed on senior citizen's home by a third party.

***Melder v. Pacific Grove Convalescent Hospital***

**Monterey County Superior Court**

CPM filed an action against nursing home for alleged inappropriate sexual behavior by employee.

***Rodriguez v. Res-Care, Inc. et al.***

**San Mateo County Superior Court**

CPM filed an elder abuse case against ResCare on behalf of a victim who suffered second and third degree burns when she was put in a shower for 20 minutes with scalding, 130 to 135-degree temperature water. The suit also seeks punitive damages and funding for future care. The case settled in 2008.

***Gogol v. Mills-Peninsula Health Services d/b/a Mills-Peninsula Skilled Nursing***

**San Mateo Superior Court**

In July 2012, CPM won a \$1,844,400 jury verdict after a two week trial on behalf of an 86 year old resident of San Mateo County who was injured in a nursing home. The jury also made a finding of clear and convincing evidence of recklessness, oppression, fraud or malice for an additional award of attorneys' fees and punitive damages. Ms. Gogol was recovering from a hip replacement at defendant's nursing home when she was dropped, breaking her recently replaced hip. She was placed back in bed without the injury being reported. Due to her cognitive impairment she had no memory of how her injury occurred. She received treatment only after a family member discovered her injuries. The case settled before the punitive damage phase of the trial.

***Pauline B. Reade v. Fetuu Tupofutuna, et al.***

**San Mateo County Superior Court**

CPM and The Legal Aid Society of San Mateo County provided *pro bono* representation to a 89 year old elderly widow, Pauline Reade, who was bilked out of nearly \$600,000. Ms. Reade faced foreclosure on her Pacifica home after a scam contractor tricked her into signing loan documents with various banks and mortgage entities. The action was filed to stop the sale against various individuals and entities involved in the loan transaction, including, RBS Financial Products, Inc., Deutsche Bank National Trust Co., GMAC Mortgage, LLC, Mortgage Electronic Registration Systems, Inc. Executive Trustee Services, Paul Financial, Fetuu Tupoufutuna and Mohammed Ali George.

***Snyder v. Menon et al.***

**Marin County Superior Court**

Action against lender, title company and individuals for fraud and elder abuse based upon the fraudulent inflation of the purchase price of a property the Plaintiffs sought to purchase.

***Shekhter v. Greengables Villa Care Home et al***

**Alameda County Superior Court**

Action for elder abuse against adult care facility for neglect and physical abuse in connection with the care of 94 year old woman.

***Platon v. A&C Health Care Services***

**Santa Clara County Superior Court**

Action for elder abuse and negligence against adult care facility for neglect and physical abuse of 91 year old resident.



***Foroudian v. Wilson et al.***

**San Mateo County Superior Court**

Action for fraud and elder abuse against title company, hard money lenders, plaintiffs' son and his ex-girlfriend for fraud and elder abuse resulting in Foroudians incurring \$2M in debt for the benefit of defendants. The Plaintiffs recovered their funds.

***Shook v. LaFarre***

**San Mateo Superior Court**

CPM represented a family in a dispute about the estate of long time San Francisco resident Rudolph R. Cook. CPM alleged that the defendant Cyrus LaFarre, a neighbor of Mr. Cook's, had duped Mr. Cook into amending his estate plan and giving his money to Mr. LaFarre. After Mr. Cook passed away, the family learned that Mr. LaFarre claimed that he had been left the majority of Mr. Cook's estate and had been named as the trustee of Mr. Cook's trust. The amendment to Mr. Cook's long time estate plan purported to give most of Mr. Cook's \$2M estate to the defendant. The jury unanimously determined that Mr. LaFarre had committed financial elder abuse and breach of fiduciary duty.

***Kofman v. Alexy Pitt et al.***

**San Mateo Superior Court**

On February 14, 2017 CPM obtained a \$1,295,579 dollar judgment on behalf of an elderly Bay Area resident who was the victim of financial elder abuse.

**EMPLOYMENT CASES**

***Shephard v. Lowe's HIW, Inc.***

**USDC Northern District of California**

Cotchett, Pitre & McCarthy, along with Block & Leviton filed a lawsuit against Lowe's HIW, Inc. ("Lowe's") on June 15, 2012 alleging that Lowe's misclassified all California installers as independent contractors in violation of California law. The Honorable Jeffrey S. White granted Plaintiff's Motion for Class Certification in August 2013, certifying the class of California installers and appointing Block & Leviton and Cotchett, Pitre & McCarthy as class counsel. The Firms successfully achieved a \$6.5 million settlement on behalf of the class of California installers, which was preliminarily approved on June 25, 2014 and is awaiting final approval.

***Avery v. Integrated Healthcare Holdings, Inc.***

**Orange County Superior Court**

CPM served as co-lead counsel in a class action lawsuit filed against the IHHI chain of hospitals in Southern California. CPM represented registered nurses and respiratory therapists who were not paid overtime wages in accordance with state law. The case settled for \$14.5M in 2013, and the court granted final approval of the settlement in August 2014.



***Los Angeles Times / Zell***

**USDC, Northern District of Illinois**

CPM represents current and former journalists of the Los Angeles Times in a lawsuit filed against Sam Zell, the Tribune Company and others for a breach of their fiduciary duties, violating ERISA, improper valuation and misuse of employee pension fund assets and conflicts of interest. Other allegations include that Tribune Company employees, who technically own the company through the Tribune ESOP, have been and continue to be damaged by the go-private transaction and by the subsequent mismanagement and self-dealings of Tribune executives, including Sam Zell, the result of which has been to diminish the value and the products of the employee-owned company.

***Cynthia Sotelo, et al. v. MediaNews Group, Inc., et al.***

**Alameda County Superior Court**

CPM represented a class of Hispanic newspaper carriers whose labor is exploited by the ANG Newspaper Group, a conglomerate news-media company. The class seeks damages for violations of the California Labor Code and Unfair Competition Laws.

***In re: Wachovia Securities, LLC, Wage and Hour Litigation***

**USDC Central District of California**

CPM was designated co-lead plaintiffs' counsel by a federal judge in a collection of lawsuits filed against Wachovia Securities, LLC, on behalf of more than 10,000 current and former stock brokers who were not paid in accordance with state and federal law.

***In re: AXA Wage and Hour Litigation***

**USDC Northern District of California**

CPM was appointed co-lead plaintiffs' counsel by a federal judge in a collection of lawsuits filed against the AXA family of insurance companies on behalf of more than 7,000 current and former financial sales representatives who were not paid in accordance with state and federal law.

***Shrager v. Advanced Equities Inc. ("AEI") et al.***

**San Francisco County Superior Court**

CPM represented an employee of a broker dealer in state court litigation over harassment and compensation claims.

***Sullivan v. Advanced Equities Inc. ("AEI")***

**FINRA Arbitration**

CPM successfully represented an employee in FINRA arbitration. The FINRA panel found that the employer had falsely accused the employee of violations of company policy and had fraudulently induced the employee to join the company, and awarded both compensatory and punitive damages. This is one of many examples of cases CPM has handled before FINRA.

## **PUBLIC INTEREST / HUMAN RIGHTS CASES**

### ***Lawsuit Filed Regarding Confiscated Armenian Lands***

#### **USDC, Central District of Los Angeles**

CPM filed a class action on behalf of Armenians seeking compensation for confiscated properties and belongings as a result of the Genocide of 1915-1923. The lawsuit targets the Central Bank of Turkey and the Ziraat Bank as financial instruments of the Turkish Government. Defendants are alleged to selling and deriving income from real estate and personal property that was owned by hundreds of thousands of Armenians who were killed during the Genocide.

### ***WWII Filipino Veterans Compensation***

#### ***De Fernandez et al. v. US Dep't of Veterans Affairs, et al.***

#### **USDC, Northern District of California**

CPM filed a class action on behalf of United States WWII Filipino Veterans, and their service organizations, challenging decisions by the VA to deny benefits to such veterans according to criteria that are arbitrary, capricious and impossible to satisfy.

### ***State Buildings Litigation***

#### ***Epstein et al. v. Schwarzenegger et al.***

#### **San Francisco Superior Court**

CPM represented taxpayers against the Schwarzenegger Administration to stop the sale of California's public buildings, which would have cost California's taxpayers billions of dollars. CPM was successful in obtaining an emergency temporary stay of the sale from the Court of Appeal. While the stay was in place Governor Brown took office and cancel the sale.

### ***Surfrider Foundation v. Martins Beach 1 LLC et al.***

#### **San Mateo Superior Court**

CPM successfully represented Surfrider Foundation to restore public access to Martin's Beach. The Complaint alleged that the owners of Martin's Beach, who purchased the property in 2008, unlawfully erected a barrier preventing access to Martin's Beach road, without a permit required by the California Coastal Act.

## **FIRST AMENDMENT CASES**

### ***Sharper Image Corporation v. Consumers Union of United States***

#### **USDC, Northern District of California**

CPM successfully defended under California's Anti-SLAPP statute of product disparagement claim brought by Sharper Image relating to reviews of Sharper Image's Ionic Breeze air cleaner published in Consumer Reports.

### ***Kendall-Jackson Winery v. E.J. Gallo Winery***

#### **USDC Northern District of California**

#### **9<sup>th</sup> Circuit Court of Appeals (1998)**

#### **150 F. 3d 1042**

CPM represented defendant in trade dress and unfair business practice litigation. (Judgment and verdict for defendant after jury trial).

***Isuzu Motors Ltd. v. Consumers Union of the United States, Inc.***

**USDC, Central District of California**

CPM represented defendant publisher of Consumer Reports in defamation/product disparagement litigation brought by auto manufacturer against non-profit consumer testing organization. Jury verdict for Consumers Union after a two-month jury trial.

***Suzuki Motor Corp. Japan v. Consumers Union of the United States, Inc.***

**USDC, Central District of California**

CPM represented defendant publisher of Consumer Reports in defamation/product disparagement litigation brought by auto manufacturer against nonprofit consumer testing organization. Summary judgment in favor of defendants was granted in May, 2000.

***In re Cable News Network and Time Magazine "Operation Tailwind" Litigation***

***Sheppard v. Cable News Network, Inc.***

**USDC, Northern District of California**

CPM represented Vietnam veterans against Time and CNN who falsely reported to have committed war crimes in Laos.

**PERSONAL INJURY CASES**

***San Bruno Pipeline Explosion***

**San Mateo County Superior Court**

CPM filed multiple actions on behalf of victims of the PG&E pipeline explosion which occurred in San Bruno. The natural gas-fed fire killed eight people and injured dozens more, and destroyed or damaged several dozen homes.

***Murillo, et al. v. National Railroad Passenger Corporation, et al.***

**Contra Costa County Superior Court**

CPM successfully represented the family of an elderly couple who were killed by an Amtrak train while their car was trapped at a dangerously designed grade railroad crossing in Crockett, California in an action against the National Railroad Passenger Corporation ("Amtrak"), Union Pacific Railroad Company and the State of California Department of Transportation.

***Manlapaz, et al. v. Bills Trucking, et al.***

**Santa Clara County Superior Court**

CPM represented the family of a woman who was killed after being crushed by a semi-truck with two dirt hauling trailers while she was crossing the street near a construction site in Mountain View, California.

***Gonzalez v. Oil Can Henry's International***

**Monterey County Superior Court**

CPM successfully represented a four-year-old child who suffered brain damage after being struck and run over by a driver at an oil change service shop which failed to properly control vehicle and pedestrian safety in conjunction with its promotion of quick service.

***Balcony Collapse***

**San Francisco County Superior Court**

CPM represented 13 victims of personal injuries and wrongful death arising out of Franklin Street balcony collapse in 1996.

***In re MGM Grand Hotel Fire Litigation***

**570 F. Supp. 913 USDC, District of Nevada**

MDL consolidated litigation by personal injury wrongful death claims in the mammoth fire that destroyed the MGM Grand in Las Vegas, Nevada.

***Carnahan v. State of California***

**Fresno County Superior Court**

CPM filed an action against the State of California and more than 100 separate defendants on behalf of scores of individuals killed or injured in a severe dust storm on I-5 over the Thanksgiving weekend in 1991.

***Hyman v. Nahi***

**Orange County Superior Court**

CPM represented victims of balcony collapse against landlord and termite company in a case involving slum landlord conditions.

***Walton v. Samuels***

**Los Angeles County Superior Court**

CPM filed an action for lung injury victims arising out of a four-alarm apartment fire in a major disaster in Los Angeles.

***Malhotra v. Nathan***

**San Francisco County Superior Court**

CPM represented 13 victims of personal injuries and wrongful death arising out of Franklin Street balcony collapse in 1996 in San Francisco.

***In re Diet Drug Litigation***

**Los Angeles County Superior Court**

***In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Products Liability Litigation***  
**USDC, Eastern Division of Pennsylvania**

CPM filed consumer fraud and product liability individual actions on behalf of approximately 100 individuals.

***Adleson v. United States***

**USDC, Northern District of California**

**523 F. Supp. 459 (1981)**

MDL actions for product liability of the Swine Flu Immunization Program out of Washington, D.C.

**INSURANCE CASES**

***Dupell v. Massachusetts General Life Ins. Co.***

**Santa Clara County Superior**

CPM filed “vanishing premium” class action on behalf of life insurance policyholders. Class certified for all purposes, 1999.

***Prop. 103 Litigation***

***Calfarm Ins. Co. v. Deukmejian***

**48 Cal. 3d 805 (1989)**

Litigation regarding Proposition 103 (rate controls on insurance carriers) on behalf of Public Citizen.

**INTELLECTUAL PROPERTY CASES**

***Kendall-Jackson Winery v. E&J Gallo Winery***

**USDC, Northern District of California**

**150 F. 3d 1042 (9th Cir. 1998)**

CPM represented defendant in trade dress and unfair business practice litigation. (Judgment and verdict for defendant after jury trial.)

***MP3.Com Copyright Cases***

**USDC, Southern District of New York**

CPM filed multiple cases alleging that MP3.Com committed copyright infringement. Issues of infringement and damages.

***Dolores Huerta et al v. Corbis Corporation***

**USDC, Northern District of California**

CPM represented defendant Huerta, muralists Susan Kelk Cervantes and Juana Alicia, and the United Farm Workers Union of America against Internet retailer Corbis for the illegal sale of copyrighted and trademarked images.

## **WAGE AND HOUR CASES**

### ***Cynthia Sotelo, et al. v. MediaNews Group, Inc., et al.***

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CPM represented a class of Hispanic newspaper carriers whose labor is exploited by the ANG Newspaper Group, a conglomerate news-media company. The class seeks damages for violations of the California Labor Code and Unfair Competition Laws.

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CPM has been appointed co-Lead Plaintiffs' Counsel by a federal judge in a collection of lawsuits against the AXA family of insurance companies, on behalf of over 7,000 current and former financial sales representatives who were not paid in accordance with state and federal law.

### ***LaParne, et al. v. Monex, et al.***

#### **USDC, Central District of California**

CPM represents current and former sales representatives in a federal lawsuit against Monex, a commodities trading company based in Southern California, for failure to pay overtime, failure to provide meal and rest breaks, and other violations of state and federal law.

## **WRONGFUL DEATH CASES**

### ***Murillo, et al. v. National Railroad Passenger Corporation, et al.***

#### **Contra Costa County Superior Court**

CPM successfully represented the family of an elderly couple who were killed by an Amtrak train while their car was trapped at a dangerously designed grade railroad crossing in Crockett, California in an action against the National Railroad Passenger Corporation ("Amtrak"), Union Pacific Railroad Company and the State of California Department of Transportation.

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## OUR ATTORNEYS

### *PARTNERS*

#### NIALL P. McCARTHY

Niall P. McCarthy, a partner at Cotchett, Pitre & McCarthy, LLP, is a graduate of the University of California at Davis and Santa Clara University School of Law. He has practiced with the firm since 1992.

McCarthy has repeatedly been selected as one of the top plaintiff attorneys in California and the United States by multiple publications, including the Daily Journal, the National Law Journal, Lawdragon Magazine and Super Lawyers Magazine. He has received a California Lawyer Magazine Attorney of the Year (CLAY) Award. From 2004 to 2014 he was selected as a Northern California "Super Lawyer" by San Francisco Magazine. McCarthy has been named a Top 100 attorney by the Daily Journal and Super Lawyers Magazine. He has the highest possible rating, AV, from Martindale-Hubbell. In 2013, McCarthy was awarded the Trial Lawyer of the Year Award by the San Mateo County Trial Lawyers Association. He has also been elected to the American Board of Trial Advocates (ABOTA).

McCarthy has represented qui tam Relators in False Claims Act cases in state and federal courts. McCarthy handled the Hunter Laboratories Litigation in which he negotiated the then largest False Claims recovery in California history, \$301 million. In the mid 1990s, he was the lead attorney in a groundbreaking case brought under the California False Claims Act on behalf of the University of California San Francisco with respect to direct and overhead costs to the university. McCarthy has extensive experience pursuing false claims cases arising out of health care fraud and other industries against the government. He coauthored the articles "Qui Tam Litigation, A Primer for the General Litigator," "Answering the Call: Attacking Healthcare Fraud with the False Claims Act," "Recent Developments in False Claims and Healthcare Litigation," and "False Claims Act Fundamentals." He has worked with the Department of Justice and Attorneys General offices throughout the United States on False Claims cases.

McCarthy has handled many consumer fraud class actions. He has acted as Co-Lead National Class Counsel in actions against some of the largest banks and credit card companies in the country, which returned hundreds of millions of dollars to consumers. He is the author of "Home Equity Loss in California Through Predatory Lending," "Combating Predatory Lending in California," and has spoken in many forums on consumer fraud.

McCarthy also has practiced extensively in the area of elder abuse, including obtaining multi-million dollar recoveries on behalf of senior citizens in actions involving reverse mortgages. He has been retained by San Mateo County, Santa Clara County, Alameda County and Santa Cruz County to prosecute financial elder abuse cases. In addition, he has handled many notable cases against nursing homes, including well-publicized actions for the families of three victims who died at a San Mateo County nursing home during a heat wave, and an action on behalf of a



developmentally disabled person who was severely burned while left unattended in a nursing home shower.

He authored "The Elder Abuse Statute: California's Underutilized Law," "Elder Abuse: Recent Legal and Legislative Developments," "Financial Elder Abuse in Real Estate Transactions Under the 2000 Revisions to the Elder Abuse Act" and "Elder Abuse Claims Not Subject to MICRA." He is a frequent speaker on elder abuse and has been featured in California Lawyer with respect to his work for seniors.

McCarthy has received many legal service awards including the Marvin Lewis Award for the Consumer Attorneys of California for guidance, loyalty and dedication, the William Nagle, Jr. Memorial Award from the San Mateo County Bar Association for innovations in the law and for professionalism, the Community Service Award from Santa Clara University School of Law for his work on behalf of consumers, the Bar Association of San Francisco's Award of Merit, the Access to Justice Award from the Lawyer's Club of San Francisco, the California Supreme Court Chief Justice's Award for Exemplary Service and Leadership, the Stanley Mosk Defender of Justice Award and the State Bar of California Presidential Award for Access to Justice.

McCarthy's other notable cases include compelling an insurance company to pay for a lifesaving bone marrow transplant for a cancer patient, and obtaining a punitive damage jury verdict in a case which unveiled a multi-state health insurance fraud. McCarthy obtained a defense award on a multi-million dollar fraud claim against his clients, and obtained a million-dollar recovery for the same clients on a cross-complaint in a year-long arbitration arising out of a failed healthcare industry merger. As co-lead counsel, he tried an action on behalf of the victims of a balcony collapse in San Francisco which resulted in a \$12 million verdict. He served as lead class counsel obtaining a \$15 million dollar verdict against Old Republic Title Co. after a trial in San Francisco Superior Court. He also obtained a substantial verdict against the government in a high profile FTCA case after a trial in federal court. He obtained a punitive damage jury verdict after trying an elder abuse case against a nursing home. In 2014, he won a unanimous jury verdict in a hotly contested financial elder abuse trial involving the misappropriation of a senior citizen's life savings. McCarthy has tried a variety of cases in state and federal court, including class actions. He has also won multiple FINRA arbitrations.

McCarthy is a past president of the Consumer Attorneys of California and the San Mateo County Trial Lawyers. He was chairman of the Business Litigation Section of the San Mateo County Bar Association. He is currently a co-chair of the Open Courts Coalition, a diverse group of attorneys from all practice areas in California whose goal is to restore court funding. McCarthy has been an MCLE panelist on many topics including courtroom conduct, complex litigation, financial fraud, financial and physical elder abuse, the fundamentals of business litigation, Business and Professions Code 17200, predatory lending, qui tam actions, discovery for trial, trial of class actions, the Consumer Legal Remedies Act and taking effective depositions. He also is active in various Peninsula community activities, including having served as chairman of the Board of Directors of Community Gatepath, a nonprofit organization which benefits children and adults

with disabilities. McCarthy received ABC 7/KGO TV's "Profiles of Excellence" Award for his work on behalf of Community Gatepath.

### **JUSTIN T. BERGER**

Justin T. Berger is a partner at Cotchett, Pitre & McCarthy, where he focuses on false claims act litigation, consumer protection, financial elder abuse, employment law, and other complex civil litigation.

Berger has been recognized as one of the top young litigators in California. In 2012, Justin was included in The Recorder's "Lawyers on the Fast Track," as one of the top 50 attorneys in California with less than 10 years of practice. Also in 2012, Berger received a California Lawyer Magazine Attorney of the Year (CLAY) Award, along with Niall McCarthy. From 2009 to 2012, Justin has been selected as a Northern California "Rising Star" by Northern California Super Lawyers and San Francisco Magazine. In 2008, Berger was selected as a finalist for the 2008 Consumer Attorney of the Year Award by the Consumer Attorneys of California, for his work on *Komarova v. National Credit Acceptance*. In 2011, Berger was again selected as a finalist for Consumer Attorney of the Year along with Niall McCarthy, for their work in recovering a record \$300 million on behalf of the State of California in a case brought under the California False Claims Act.

Berger received his Bachelor of Arts from Yale University, graduating Cum Laude, with Honors in the Major. He received his J.D. from the University of California, Berkeley School of Law (Boalt Hall). At Boalt, Justin was a member of the California Law Review and the LAS-ELC Workers' Rights Clinic. In addition, through Boalt's International Human Rights Law Clinic, Justin served on the trial team that successfully prosecuted the case *Yean and Bosico v. Dominican Republic* before the Inter-American Court of Human Rights.

Following law school, Justin clerked for U.S. District Court Judge Susan Illston of the Northern District of California.

Prior to law school, Berger served for two years as a United States Peace Corps Volunteer in Ecuador. Berger also served for a year as an AmeriCorps VISTA volunteer at Casa Cornelia Law Center, a non-profit immigration law firm in San Diego. Berger is fluent in Spanish.

Berger is the President of the San Mateo County Barristers, and is active in the Northern California Peace Corps Association. Berger is a member of the San Mateo County Bar Association, Consumer Attorneys of California, American Business Trial Lawyers, and the San Mateo County Trial Lawyers Association.

## ***SENIOR ASSOCIATES***

### **Adam M. Shapiro**

Adam M. Shapiro was an Associate at Cotchett, Pitre & McCarthy, LLP, where he focused on false claims act litigation, consumer protection, class actions, and other complex civil litigation.

Before joining Cotchett, Pitre & McCarthy, Mr. Shapiro was a Senior Staff Attorney for the California Court of Appeal and a clerk for the Honorable Samuel Conti at the United States District Court for the Northern District of California, where he worked on a wide variety of civil, criminal, and family law matters. Mr. Shapiro also practiced law in San Francisco, handling securities and derivative cases.

Mr. Shapiro is a graduate of Stanford Law School. He was an article's editor at the Stanford Environmental Law Review, practiced in Stanford's Environmental Law Clinic, and volunteered at the school's domestic violence clinic. Prior to law school, Mr. Shapiro worked as a policy analyst and management consultant in Washington, D.C. He also earned a Master's in Public Policy from Harvard University, and graduated summa cum laude from the University of Rochester.

## ***ASSOCIATES***

### **MALLORY A. BARR**

Mallory A. Barr is an Associate at Cotchett, Pitre & McCarthy, where she practices in a variety of fields, including false claims act litigation, consumer protection, class actions, financial elder abuse, employment law, and other complex civil litigation.

Ms. Barr received her J.D. from Santa Clara University School of Law with a certificate in Public Interest and Social Justice Law. While attending Santa Clara, Ms. Barr participated in various extracurricular activities, including Honors Moot Court and the *Santa Clara Journal of International Law*. Ms. Barr also had the honor of being a Policy Research Fellow at the Panetta Institute for Public Policy in Monterey, where she focused on immigration policy. She also worked in the Workers' Rights Clinic at the Alexander Community Law Center and received the Herman and Edith Wildman Social Justice Law Writing Award. During law school, Ms. Barr continued to work full-time as a Litigation Paralegal and Law Clerk at Cotchett, Pitre & McCarthy, LLP.

Before law school, Ms. Barr graduated from the University of London with her M.A. in Latin America Area Studies, where her studies focused on development and security policies in the region. Ms. Barr also graduated *Summa Cum Laude* with her B.A. in Political Science and History from Notre Dame de Namur University (NDNU), where she had the honor of receiving the Belmont Student Community Service and Leadership Award from the City of Belmont and the

Board of Trustees Award of Excellence at graduation. While attending NDNU, Ms. Barr served as the President of the Associated Students of NDNU and held a variety of other Student Life and Leadership positions.

Ms. Barr is a member of the American Barr Association, San Mateo County Bar Association, Consumer Attorneys of California, the Irish American Bar Association, and Tax Payers Against Fraud.

Ms. Barr is on the Board of the Barristers for San Mateo County Bar Association.

Ms. Barr volunteers in her community, including serving on the San Jose Sharks Foundation's Young Professionals Board.